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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,076	03/06/2002	Paul D. Daly	2001P08244US01 60,426-371	8488
24500	7590	02/16/2006	EXAMINER	
SIEMENS CORPORATION INTELLECTUAL PROPERTY LAW DEPARTMENT 170 WOOD AVENUE SOUTH ISELIN, NJ 08830			PENDLETON, BRIAN T	
			ART UNIT	PAPER NUMBER
			2644	

DATE MAILED: 02/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/092,076

Applicant(s)

DALY, PAUL D.

Examiner

Brian T. Pendleton

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/20/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION***Response to Arguments***

Applicant's arguments, see pages 1-2, filed on 11/28/05, with respect to the rejection(s) of claim(s) 1, 2, 8-11, 14, and 17 under 35 U.S.C. 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Gifford et al, US Patent 5,841,876 and Lambrecht, US Patent 6,259,792.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 8-11, 14, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Lambrecht. In figure 4, Lambrecht discloses an active noise cancellation device comprising speaker 110 for generating a noise control sound that controls engine sound heard inside an airplane (a vehicle), a processor 102 as a controller for selecting driving the speaker to generate the noise control sound, and an input device 116 as a communication portion to communicate a selection of one of several available engine sounds to the controller for reproduction through the speaker 100 (see column 6). Claims 1, 8-10, 14 are met. Regarding claims 2, 11, and 17, the device can be supported on the vehicle (armrest) and inherently a user communication interface (input device 116) is supported on the vehicle.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 8-10, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuesser et al in view of Gifford et al. Fuesser et al disclose an active noise cancellation system comprising a speaker 14, controller 17, and microphone 16. Fuesser et al do not disclose a communication portion that is adapted to communication a selection indicating one of several available engine sounds to the controller. In figure 10, Gifford et al disclose an active vibration (noise) control system comprising actuator 120 for generating an anti-vibration signal, accelerometer 100, rotation sensor 102, controller 900 for generating a control signal, and human interface 925. As taught in column 8 line 61 – column 9 line 7, human interface 925 is used to select an appropriate noise profile. It would have been obvious to one of ordinary skill in the art at the time of invention to modify Fuesser et al, per the teachings of Gifford et al and include an interface for controlling the exact performance of the active noise cancellation system for the purpose of improving the versatility of the system. Claims 1, 8-10, and 14 are met.

Claims 2-7, 11-13, and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuesser et al in view of Gifford et al as applied to claims 1, 8, and 14 above, and further in view of Witkowski et al, US Patent Application Publication 2002/0197955. The combination of Fuesser et al and Gifford et al does not disclose a user communication interface supported on the vehicle having an input portion that allows an individual to select an available engine sound.

Art Unit: 2644

Witkowski discloses a wireless communication system for a vehicle comprising vehicle 14, system control 54, vehicle audio system 20, and vehicle display system 22. The vehicle display and systems are used to indicate a user selection. Therefore, it was well known at the time of invention to use a vehicle mounted display (see paragraphs 42 and 43) for communicating user preferences in an automobile. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the combination of Fuesser et al and Gifford et al to include the vehicle mounted display of Witkowski for the purpose of providing an easy human interface system for selecting a noise profile. Claims 2, 11, and 17 are met. Regarding claims 3, 4, 12, 13, and 19, Witkowski et al disclose a communication method using an electronic device 12 (which can be a PDA, see paragraph 11) for communicating information from a personal handheld device to a vehicle's mounted system. It would have been obvious to one of ordinary skill in the art at the time of invention to modify Fuesser et al and Gifford et al to have the communication system described by Witkowski et al for the purpose of providing a wireless user interface for controlling the input of noise profiles with the advantage using an existing device without the need of connecting cables. As to claims 5-7 and 18, Witkowski discloses an embodiment comprising a cellular phone in figure 8. As to claims 15 and 20, it was obvious to associate a cellular phone with a particular vehicle system for the purpose of ensuring that a specific cellular phone would only control a particular vehicle system. Per claim 16, Examiner takes Official Notice that it was notoriously well known at the time of invention to track user information on a network for the purpose of customizing a system setting for an user with the benefit of quicker initiation of a system's operating parameters.

Conclusion


Art Unit: 2644

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian T. Pendleton whose telephone number is (571) 272-7527. The examiner can normally be reached on M-F 7-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on (571) 272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

btp


BRIAN TYRONE PENDLETON
PRIMARY EXAMINER